

AMENDMENT OF SOLICITATION/ MODIFICATION OF CONTRACT			1. CONTRACT ID CODE N/A	PAGE 1 of 2
2. AMENDMENT/ MODIFICATION NO. A002	3. EFFECTIVE DATE 05/14/2008	4. REQUISITION/PURCHASE NO. N/A		5. PROJECT NO. (If applicable) MT NPS ERFO 2007 (1)-45(3) GTSR MP 33 PERMANENT ERFO REPAIRS
6. ISSUED BY Department of Transportation Federal Highway Administration 610 East Fifth Street Vancouver WA 98661-3801		CODE N/A	7. ADMINISTERED BY (If other than Item 6) CODE N/A	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and Zip Code)			X	9A. AMENDMENT OF SOLICITATION NO. DTFH70-08-R-00006
				9B. DATED (SEE ITEM 11) 04/11/2008
				10A. MODIFICATION OF CONTRACT/ORDER NO. N/A
				10B. DATED (SEE ITEM 13) N/A
CODE: N/A		FACILITY CODE: N/A		

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☒ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers

☒ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning 1 copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. **FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.** If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

N/A

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

A	THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. N/A
B	THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (Such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). N/A
C	THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: N/A
D	OTHER (Specify type of modification and authority) N/A

E. IMPORTANT: Contractor n/a is not, n/a is required to sign this document and return n/a copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/Modification (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

MT NPS ERFO 2007 (1)-45(3), GTSR MP 33 PERMANENT ERFO REPAIRS

See page 2 for revisions.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.			
15a. NAME AND TITLE OF SIGNER (Type or print)		15a. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
		N/A	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
BY _____ (Signature of person authorized to sign)		BY <u>N/A</u> (Signature of Contracting Officer)	N/A

REVISIONS ARE AS FOLLOWS:

SF 1442, SOLICITATION, OFFER, AND AWARD (Pen & Ink change)

Page A-3, Block 13A. Revises proposal due date from May 15, 2008 to contact HK Contractors Inc. for date/time.

Cross Sections and Earthwork summary is available on our FTP site at
<ftp://198.145.188.2/pub/GTSR%20MP%2033%2003-27-08/>.

CONTRACT CLAUSES

Page C-1. Adds. FAR Clauses 52.211-10, Commencement, Prosecution, and Completion of Work (Apr 1984) for Pay Item No. 66701.

Revises. FAR Clauses 52.211-10, Commencement, Prosecution, and Completion of Work (Apr 1984) Alternate I(Apr 1984) for remainder of the work.

Repaginates entire section.

SPECIAL CONTRACT REQUIREMENTS

Page E-9, Subsection 105.02(a) Government-provided sources. Adds source

Page E-19 Subsection 108.01(a) Commencement, Prosecution, and Completion of Work. Adds information

Page E-43, Subsection 156.03 Accommodating Traffic During Work (e) changes date

Page E-43, Subsection 156.05 Maintaining Roadways During Non-Work Periods. Adds paragraph

Page F-2a, Subsection 204.16. Adds paragraph

Page F-13 Subsection 255.07. Deletes facing rock and last sentence

Page F-18a Subsection 411.08. Adds item

Page F-35 – F-36 Section 667 2008 Traffic Repairs. Adds Section

ENCLOSURES

Pages:

C-1 through C-20
E-9
E-19
E-43
F-2a

Amendment No. A002, dated 5/14/08
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MT NPS ERFO 2007(1)-45(3)
GTSR MP 33 Permanent ERFO Repairs

F-13
F-18a
F-35 – F36

PEN & INK (not enclosed)
A-3 (not enclosed – Pen & Ink only)

Federal Acquisition Regulation Contract Clauses

Note: The clauses included in the basic IDIQ apply. The following clauses have been changed or require fill-in for this specific project.

52.204-1 Approval of Contract (Dec 1989)

This contract is subject to the written approval of the Western Federal Lands' Division Engineer (or delegate) or the Second Level Contracting Officer, and shall not be binding until so approved.

52.211-10 Commencement, Prosecution, and Completion of Work (Apr 1984)

The Contractor shall be required to

- (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed,
- (b) prosecute the work diligently, and
- (c) complete the entire work ready for use not later than **21 calendar days after receipt of the Notice to Proceed for Pay Item 66701**

52.211-10 Commencement, Prosecution, and Completion of Work (Apr 1984) Alternate I (Apr 1984)

The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than **June 18, 2009**, subject to such extensions as may be authorized. The time stated for completion shall include final cleanup of the premises.

The completion date is based on the assumption that the successful Offeror will receive the notice to proceed **by July 17, 2008**. The completion date will be extended by the number of calendar days after the above date that the contractor receives the notice to proceed, except to the extent that the delay in issuance of the notice to proceed results from the failure of the contractor to execute the contract and give the required performance and payment bonds within the time specified in the offer.

52.211-12 Liquidated Damages—Construction (Sep 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of: See Special Contract Requirements, Subsection 108.04.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

| Revised by A002

52.215-10 Price Reduction for Defective Cost or Pricing Data (Oct 1997)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which—

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c) (1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2) (i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid—

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

52.215-12 Subcontractor Cost or Pricing Data (Oct 1997)

(a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either—

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data—Modifications.

52.215-15 Pension Adjustments and Asset Reversions (Oct 2004)

(a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.

(b) For segment closings, pension plan terminations, or curtailment of benefits, the amount of the adjustment shall be—

(1) For contracts and subcontracts that are subject to full coverage under the Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99), the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12); and

(2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

(c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.

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(d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (July 2005)

(a) The Contractor shall promptly notify the Contracting Officer in writing when the Contractor determines that it will terminate or reduce the benefits of a PRB plan.

(b) If PRB fund assets revert or inure to the Contractor, or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by 31.205-6(o)(5) of the Federal Acquisition Regulation (FAR). When determining or agreeing on the method for recovery of the Government's equitable share, the contracting parties should consider the following methods: cost reduction, amortizing the credit over a number of years (with appropriate interest), cash refund, or some other agreed upon method. Should the parties be unable to agree on the method for recovery of the Government's equitable share, through good faith negotiations, the Contracting Officer shall designate the method of recovery.

(c) The Contractor shall insert the substance of this clause in all subcontracts that meet the applicability requirements of FAR 15.408(j).

52.215-19 Notification of Ownership Changes (Oct 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall—

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data - Modifications (Oct 1997)

(a) Exceptions from cost or pricing data.

(1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following paragraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable—

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Information on modifications of contracts or subcontracts for commercial items.

(A) If—

(1) The original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include—

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.*, wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

52.219-16 Liquidated Damages---Subcontracting Plan (Jan 1999)

(a) "Failure to make a good faith effort to comply with the subcontracting plan," as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists.

If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation (July 2005)

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) Payrolls and basic records.

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)

(a) *Definition.* As used in this clause—

“United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to—

- (1) Contractors and subcontractors that employ fewer than 15 persons;
- (2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;
- (3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;
- (4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—
 - (i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and
 - (ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or
- (5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—

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(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

**52.223-3 Hazardous Material Identification and Material Safety Data (Jan 1997)
Alternate I (July 1995).**

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The Offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (if none, insert "None")	Identification No.
_____	_____
_____	_____
_____	_____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to—

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with paragraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

52.225-9 Buy American Act—Construction Materials (Jan 2005)

(a) *Definitions.* As used in this clause—

“Component” means an article, material, or supply incorporated directly into a construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

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“Cost of components” means—

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Domestic construction material” means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

“Foreign construction material” means a construction material other than a domestic construction material.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Domestic preference.

(1) This clause implements the Buy American Act (41 U.S.C. 10a - 10d) by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows:

None

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that—

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act.

(1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.

(d) *Data*. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction Material Description	<u>Unit of Measure</u>	<u>Quantity</u>	<u>Price (Dollars)*</u>
Item 1:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
Item 2:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

52.228-1 Bid Guarantee (Sept 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds—

- (1) To unsuccessful bidders as soon as practicable after the opening of bids; and
- (2) To the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.
- (c) The amount of the bid guarantee shall be 20 percent of the bid price or \$3 million, whichever is less.
- (d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.
- (e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

52.229-3 Federal, State, and Local Taxes (Apr 2003)

(a) As used in this clause—

“After-imposed Federal tax” means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

“After-relieved Federal tax” means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“All applicable Federal, State, and local taxes and duties” means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

“Contract date” means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

52.236-1 Performance of Work by the Contractor (Apr 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **fifteen (15)** percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

52.236-4 Physical Data (Apr 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by: N/A.

(b) Weather conditions: N/A.

(c) Transportation facilities: N/A.

(d) Hydrological data consisting of flow rates, water surface elevations, velocities, and hydraulic permit information may be inspected at Western Federal Lands Highway Division, Contracts Section, 610 East Fifth Street, Vancouver, Washington 98661.

(e) Geotechnical data, subsurface investigation information, and design data, consisting of the following, may be obtained upon request. Written requests are required and may be submitted to the Contracts Section at the above address, by FAX at (360) 619-7932, or by e-mail at *contracts@mail.wfl.fhwa.dot.gov*.

- (1) Geotechnical Report No. 17-05: Potential Stone Masonry Source Evaluation, GTSR, Glacier National Park, Columbia Falls, MT
- (2) Geotechnical Memorandum No. 06-08: Glacier National Park, Montana, Summary Geotechnical Design Basis, Cornforth Consultants, Inc., April 9, 2008
- (3) Plotted cross-sections of earthwork. (PDF files on FTP):
<ftp://198.145.188.2/pub/GTSR%20MP%2033%2003-27-08/>
- (4) Earthwork. (PDF files on FTP):
<ftp://198.145.188.2/pub/GTSR%20MP%2033%2003-27-08/>

52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

| Revised by A002

Contract Clauses

MT NPS ERFO 2007(1)-45(3), GTSR MP33 Permanent ERFO Repairs

52.236-10 Operations and Storage Areas (Apr 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (*e.g.*, storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

52.236-13 Accident Prevention (Nov 1991) Alternate I (Nov 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will—

- (1) Safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;
- (2) Avoid interruptions of Government operations and delays in project completion dates; and
- (3) Control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall—

- (1) Provide appropriate safety barricades, signs, and signal lights;
- (2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and
- (3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required.

After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(f) Before commencing the work, the Contractor shall—

(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

52.236-21 Specifications and Drawings for Construction (Feb 1997) Alternate II (Apr 1984)

When record shop drawings are required and reproducible shop drawings are not needed, the following sentences shall be added to paragraph (g) of the basic clause:

Upon completing the work under this contract, the Contractor shall furnish four (4) sets of prints of all shop drawings as finally approved. These drawings shall show changes and revisions made up to the time the equipment is completed and accepted.

52.242-14 Suspension of Work (Apr 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed—

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and

(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

52.244-2 Subcontracts (Aug 1998)

(a) *Definitions.* As used in this clause—

“Approved purchasing system” means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

“Consent to subcontract” means the Contracting Officer’s written consent for the Contractor to enter into a particular subcontract.

“Subcontract” means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

- (1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or
- (2) Is fixed-price and exceeds—

- (i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

- (ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer’s written consent before placing the following subcontracts:

(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

- (i) A description of the supplies or services to be subcontracted.

- (ii) Identification of the type of subcontract to be used.

- (iii) Identification of the proposed subcontractor.

- (iv) The proposed subcontract price.

- (v) The subcontractor’s current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

- (vi) The subcontractor’s Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

- (vii) A negotiation memorandum reflecting—

- (A) The principal elements of the subcontract price negotiations;

- (B) The most significant considerations controlling establishment of initial or revised prices;

- (C) The reason cost or pricing data were or were not required;

- (D) The extent, if any, to which the Contractor did not rely on the subcontractor’s cost or pricing data in determining the price objective and in negotiating the final price;

- (E) The extent to which it was recognized in the negotiation that the subcontractor’s cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

- (F) The reasons for any significant difference between the Contractor’s price objective and the price negotiated; and

- (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) of this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination—

- (1) Of the acceptability of any subcontract terms or conditions;
- (2) Of the allowability of any cost under this contract; or
- (3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations: _____.

52.244-5 Competition in Subcontracting (Dec1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

TRANSPORTATION ACQUISITION REGULATIONS CONTRACT CLAUSES

1252.211-70 Index for Specifications (April 2005)

If an index or table of contents is furnished in connection with specifications, it is understood that such index or table of contents is for convenience only. Its accuracy and completeness is not guaranteed, and it is not to be considered as part of the specification. In case of discrepancy between the index or table of contents and the specifications, the specifications shall govern.

1252.223-73 Seat Belt Use Policies and Programs (April 2005)

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the contractor is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the *Buckle Up America* section of NHTSA's website at www.nhtsa.dot.gov.

Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, D.C. metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1-888-221-0045 or visit its website at www.trafficsafety.org.

1252.228-73 Notification of Miller Act Payment Bond Protection (April 2005)

This notice clause shall be inserted by first tier subcontractors in all their subcontracts and shall contain information pertaining to the surety that provided the payment bond under the prime contract.

(a) The prime contract is subject to the Miller Act, (40 U.S.C. 3131 et al), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Miller Act for amounts owed for work performed and materials delivery under the prime contract.

(b) Persons believing that they have legal remedies under the Miller Act should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create any relationship, contractual or otherwise, between the Federal Government and any private party.

(c) The surety who has provided the payment bond under the prime contract is:

(Name)

(Street Address)

(City, State, Zip Code)

(Contact & Tel. No.)

1252.237-73 Key Personnel (April 2005)

(a) The personnel as specified below are considered essential to the work being performed under this contract and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel, as appropriate.

(b) Before removing, replacing, or diverting any of the specified individuals, the Contractor shall notify the contracting officer, in writing, before the change becomes effective. The Contractor shall submit information to support the proposed action to enable the contracting officer to evaluate the potential impact of the change on the contract. The Contractor shall not remove or replace personnel under this contract until the Contracting Officer approves the change.

1252.242-73 Contracting Officer's Technical Representative (Oct 1994)

(a) The Contracting Officer may designate Government personnel to act as the Contracting Officer's Technical Representative (COTR) to perform functions under the contract such as review and/or inspection and acceptance of supplies, services, including construction, and other functions of a technical nature. The Contracting Officer will provide a written notice of such designation to the Contractor within five working days after contract award or for construction, not less than five working days prior to giving the contractor the notice to proceed. The designation letter will set forth the authorities and limitations of the COTR under the contract.

(b) The Contracting Officer cannot authorize the COTR or any other representative to sign documents (i.e., contracts, contract modifications, etc.) that require the signature of the Contracting Officer.

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Section 105.— CONTROL OF MATERIAL

105.02 Material Sources. Amend as follows:

(a) **Government-provided sources.** Add the following:

Obtain Placed Riprap Class 4 in accordance with Sections 251 and stone masonry for work under Section 620 at the Glacier National Park Ball field located approximately 0.5 miles from the West Entrance station. Available stone at this site is currently organized and stacked upon pallets. There is no charge for stone masonry material or Riprap Class 4 taken from the Glacier National Park Ball field.

Comply with the following:

(1) Keep the site clean and accessible at all times.

(2) Return any unused stones to the original pallet stack from which they were removed.

Water for construction purposes may be obtained from the Hudson Bay District Maintenance Facility. Coordinate with the CO prior to use of this facility for appropriate access points and hookup requirements. Water may also be obtained from McDonald Creek at Logan Pit according to Subsection 107.11(h)

(b) **Contractor-located sources.** Add the following to the first paragraph:

Obtain permits according to Subsection 107.10.

Add the following:

Several known local material sources are listed under the Notice to Offeror.

All imported material from Contractor-located sources must be certified by the Government to be free from noxious weeds or invasive plant materials and other deleterious material before entering the Park at the start of each construction season. To determine if a potential material source meets the weed-free requirement, submit a list of sources to be inspected by the Government. In addition to the source name and location, submit potential mitigative measures to make the source weed-free. The Government will furnish an inspection report, weather permitting, within 21 days of a submission of potential material sources, listing the status of the source and any mitigative measures that would need to be accomplished before use. Coordinate with the CO on specific dates.

Revised by Amendment A002

Section 108.— PROSECUTION AND PROGRESS

108.01 Commencement, Prosecution, and Completion of Work. Amend as follows:

Delete the text of the second paragraph and substitute the following:

A preconstruction conference will be held after the task order is awarded and before beginning work. Furnish at least 48 hours advance notice before changing the current work schedule. Work schedule changes that include additional shifts require 14 days notice.

Add the following:

Perform work under this contract according to the following:

- (a) Limit work as provided in Subsection 107.02, 107.08, 107.10, 156.03 and 156.06. As a minimum, complete all work with except roadway paving prior to the 2008 winter shutdown. If paving is not completed prior to the 2008 winter shutdown, provide a plowable surface for spring opening according to Subsections 156.04 and 156.05.
- (b) Limit speeds on haul roads to 25 mph or slower, depending on site conditions.
- (c) Pursuant to FAR Clause 52.236-5; remove from the project any driver who receives two traffic citations while driving within Glacier National Park.

108.01A Labor. (Added Subsection.)

Follow the requirements of FAR Clause 52.222-6 Davis Bacon Act.

Adjacent or virtually adjacent work sites are defined to be work sites within ½ mile of the project. Application of the Davis-Bacon Act for work sites beyond ½ mile of the project will be determined by the CO.

108.02 Subcontracting. Amend as follows:

Delete the first paragraph and substitute with the following:

FAR clauses, 52.222-11 Subcontracts (Labor Standards), and 52.236-1, Performance of Work by the Contractor are supplemented as follows.

Delete the fourth paragraph and substitute with the following:

In FAR Clauses 51.219-8, Utilization of Small Business Concerns and 52.237-27, Prompt Payment for Construction Contracts, the subcontracts include both on-site work and supply contracts.

Revised by Amendment A002

Special Contract Requirements

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(e) Between September 15, 2008 to June 18, 2009, the project site may be closed between Siyeh Bend and Logan Pass to public traffic. The National Park Service will provide a closure gate at Siyeh Bend on the east side of the work area. The Contractor may keep this gate open when work is underway for construction traffic. If the Contractor chooses to maintain an open gate during work hours, provide a flagger with radio communications to monitor gate access. Close and secure gate during non-work hours or whenever gate is not monitored by the flagger. As directed by the CO, maintain government provided signs at each closure point gate to display the status of the construction zones to bicyclists and pedestrians. Coordinate closure of project site with other ongoing projects to provide one-way access to Logan Pass at all times. Provide proposed closure schedule according to Section 155.

(f) Staff forces from Glacier National Park will conduct a nightly traffic sweep at 10 pm during the extended delay periods defined in 156.03(b) to insure all public traffic is out of the work zone. Do not delay traffic or close the work zone until the sweep is complete.

156.04 Maintaining Roadways During Work. Delete the text of paragraph (c) and substitute with the following:

(c) Snow removal to facilitate the work is the Contractor's responsibility. Before snow removal activity, submit a snow removal plan for approval by the CO. Snow removal to provide public access is the responsibility of the Park and will be performed at the Park's discretion. The Park will provide snow removal according to the normal road opening priority schedule. There are no fixed opening dates due to variable snow conditions. Provide Park snow plow and maintenance crews access though the project after initial spring snow plow operations have moved beyond the project limits. Allow emergency traffic though the project without delay at all times.

156.05 Maintaining Roadways During Non-Work Periods. Add the following:

Remove equipment, stockpiled materials, and other hazards from the road, turnouts, and parking areas within the project limits before the winter shutdown unless otherwise approved by the CO.

Remove temporary concrete barrier and other hazards from avalanche chutes before the winter shutdown as directed by the CO.

Place snowpoles around any hazards to remain during winter shutdown as directed by the CO.

Place government provided portable traffic signals as directed by the CO according to Section 635.

The Contractor is responsible for any aggregate surface losses within the unpaved portions of the project site resulting from Park snow removal operations for the Spring 2009 opening.

Revised by Amendment A002

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Provide a temporary driving surface within one day after completing the backfill of any subexcavated area. No more than three open subexcavation areas may be left without a temporary driving surface at any one time.

204.14 Disposal of Unsuitable or Excess Material. Delete the text of this paragraph and substitute with the following:

Dispose of unsuitable and excess material at Sun Point or at alternate locations determined by the CO. Where unsuitable material is not allowed in the Park boundaries, dispose legally off the project (comply with Subsection 107.10 as well as any applicable local, State, and Federal laws).

Measurement

204.16 Amend as follows:

Add the following to paragraph (a)(1)(a) Roadway prism excavation:

Use the volume shown in the plan column on the summary of quantities sheet of the plans. The volume is subject to adjustments resulting from changes to slope stakes. See Subsection 152.03(c), Slope stakes and references.

Add the following to paragraph (a):

(4) Hydraulic excavators with hoe ram attachments utilized for rock excavation will be measured under Section 622.

Measure subexcavation and select borrow utilized for subexcavation backfill under Section 667.

Revised by Amendment A001

Revised by Amendment A002

Special Contract Requirements

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Once the specified lift thickness is achieved, wrap Type IV-A geotextile over geogrid face and place gabion rock. Ensure geotextile forms a positive separation between the select granular backfill and the gabion rock as shown in the plans. Place gabion rock in a manner that causes minimal damage to the welded wire form and support struts.

Replace all wall materials damaged by the backfill placement and compaction operations. When damaged geogrid is replaced, the entire reinforcement length, at full manufactured roll width, must be replaced. In this case it is permissible to overlay the damaged geogrid with the replacement geogrid. Correct all misaligned or distorted wall elements caused by the placement of backfill.

255.06 Acceptance. Add the following:

Geogrid, welded wire framing, and related hardware will be evaluated under Subsection 106.03.

Geogrid wall construction will be evaluated under Subsection 106.04.

See Table 255-1 for minimum sampling, testing and acceptance requirements.

Measurement

255.07 Amend as follows:

Delete the second paragraph.

Add the following:

Measure Geogrid walls by the square foot of vertical projection of the front wall face.

Do not measure geogrid, welded wire framing, and related hardware for payment.

Do not measure bedding, collector pipes, outlet pipes, select granular backfill, or geotextile for payment.

Do not measure structural excavation for payment.

Do not measure composite sheet drain for payment.

Revised by Amendment A002

Special Contract Requirements

Project: MT NPS ERFO 2007(1)-45(3), GTSR MP 33 PERMANENT ERFO REPAIRS

Section 411.— ASPHALT PRIME COAT

Material

411.02 Delete “Blotter 703.13” and add the following:

Blotter	703.06
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Construction Requirements

411.06 Asphalt Application. Amend as follows:

Delete the second paragraph and substitute the following:

Where using emulsified asphalt, apply it at a rate of 0.30 gallons per square yard. Apply the blotter uniformly at a rate of 25 pounds per square yard with an aggregate spreader immediately after the asphalt is applied. The CO will approve the exact application rate. Operate aggregate spreader so the asphalt is covered with the blotter before wheels pass over it. During part-width construction , leave uncovered a strip of asphalt approximately 6 inches wide to permit an overlap of asphalt material. Make roller passes to seat the blotter immediately after the aggregate is applied. Operate rollers at a maximum speed of 5 miles per hour. (Revised by Amendment A001)

Delete the last paragraph.

Measurement

411.08 Delete the second and third paragraphs of this Subsection and substitute the following:

Measure prime coat, water for dilution, and blotter according to Section 667.

Revised by Amendment A001

Revised by Amendment A002

Special Contract Requirements

Project: MT NPS ERFO 2007(1)-45(3), GTSR MP 33 PERMANENT ERFO REPAIRS

**Section 667.— NEGOTIATED PAY ITEM (2008 Traffic Repairs)
(ADDED SECTION)**

Description

646.01 This work consists of repairing deteriorated portions of the existing project site roadway. These repairs include subexcavation and prime coat application over segments of the existing surface.

Construction Requirements

646.02 Subexcavation. Subexcavate and backfill identified locations of the existing surface according to Subsection 204.07.

646.03 Prime Coat. Apply an asphalt prime coat to the unpaved portions of the project site according to Section 411.

646.04 Acceptance. Subexcavation will be evaluated under the Section 204. Asphalt prime coat will be evaluated under Section 411.

Measurement

646.05 Measure the Section 667 pay items listed in the bid schedule by the lump sum according to Subsection 109.02.

Payment

646.06 The accepted quantities, measured as provided in Subsection 109.02 and above, will be paid at the contract price per unit of measurement for the Section 667 pay items listed in the bid schedule. Payment will be full compensation for the work prescribed in this Section. See Subsection 109.05.

Revised by Amendment A002

Special Contract Requirements

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Special Contract Requirements

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